

AMENDED IN ASSEMBLY APRIL 2, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2131

Introduced by Assembly Member Morrell

February 20, 2014

An act to add Section 4310.5 to the Business and Professions Code, relating to pharmacy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2131, as amended, Morrell. Pharmacy licenses: letters of reprimand.

~~Under the Pharmacy Law the California State Pharmacy Board licenses and regulates pharmacists. The board may~~

Existing law, the Pharmacy Law, provides for the regulation and licensure of pharmacists by the California State Pharmacy Board. Existing law authorizes the board to refuse to license an applicant guilty of unprofessional conduct or—issue to issue, at its sole discretion, a probationary license to an applicant who has met all other licensure requirements.

This bill would authorize the board to issue a license to an applicant who has committed minor violations that the board deems, in its discretion, do not merit the denial of a ~~certificate~~ license or require probationary status, and to concurrently issue a public letter of reprimand, as specified. *The bill would require the letter of reprimand to, among other things, describe in detail the nature and facts of the violation and inform the licensee that he or she may accept the letter of reprimand without challenge or, within 30 days of service of the letter, submit a written request for an office conference to contest the letter of reprimand. The bill requires the executive director of the board,*

or his or her designee, to hold an office conference with the licensee and his or her legal counsel or authorized representative, if any, within 30 days of receipt of the request, as specified. The bill authorizes the executive officer, or his or her designee, to affirm, modify, or withdraw the letter of reprimand and requires the executive officer, or his or her designee, to provide the licensee with a written decision within 14 calendar days from the date of the office conference. The bill would require a letter of reprimand issued concurrently with a board license to be purged 3 years from the date of issuance, as specified. The bill would require a letter of reprimand to be disclosed to an inquiring member of the public and posted on the board's Internet Web site.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4310.5 is added to the Business and
2 Professions Code, to read:
3 4310.5. (a) Notwithstanding subdivision (c) of Section 4300,
4 the board may issue a license to an applicant who has committed
5 minor violations that the board deems, in its discretion, do not
6 merit the denial of a ~~certificate~~ license or require probationary
7 status under Section 4300, and may concurrently issue a public
8 letter of reprimand.
9 (b) The letter of reprimand shall be in writing and shall describe
10 in detail the nature and facts of the violation, including a reference
11 to the statutes or regulations violated.
12 (c) The letter of reprimand shall inform the licensee that within
13 30 days of service of the letter of reprimand the licensee may do
14 either of the following:
15 (1) Submit a written request for an office conference to the
16 executive officer of the board to contest the letter of reprimand.
17 (A) ~~Upon a timely request, Within 30 days of receipt of the~~
18 ~~request,~~ the executive officer, or his or her designee, shall hold an
19 office conference with the licensee ~~or and~~ the licensee's legal
20 counsel or authorized ~~representative~~ representative, if any. Unless
21 so authorized by the executive officer, or his or her designee, no
22 individual other than the legal counsel or authorized representative
23 of the licensee may accompany the licensee to the office
24 conference.

1 (B) Prior to or at the office conference, the licensee may submit
2 to the executive officer ~~officer~~ *officer, or his or her designee*, declarations
3 and documents pertinent to the subject matter of the letter of
4 reprimand.

5 (C) The office conference is intended to be an informal
6 proceeding and shall not be subject to the provisions of the
7 Administrative Procedure Act (Chapter 3.5 (commencing with
8 Section 11340), Chapter 4 (commencing with Section 11370),
9 Chapter 4.5 (commencing with Section 11400), and Chapter 5
10 (commencing with Section 11500) of Part 1 of Division 3 of Title
11 2 of the Government Code).

12 (D) The executive officer, or his or her designee, may affirm,
13 modify, or withdraw the letter of reprimand. Within 14 calendar
14 days from the date of the office conference, the executive officer,
15 or his or her designee, shall personally serve or send by certified
16 mail to the licensee's address of record with the board a written
17 decision. This decision shall be deemed the final administrative
18 decision concerning the letter of reprimand.

19 (E) Judicial review of the decision may be had by filing a
20 petition for a writ of mandate in accordance with the provisions
21 of Section 1094.5 of the Code of Civil Procedure within 30 days
22 of the date the decision was personally served or sent by certified
23 mail. The judicial review shall extend to the question of whether
24 or not there was a prejudicial abuse of discretion in the issuance
25 of the letter of reprimand.

26 (2) The licensee may accept the letter of reprimand without
27 challenge. The board shall inform the licensee that the letter of
28 reprimand shall be purged after three years if no letter of
29 admonishment, citation, notice of correction, or disciplinary action
30 is initiated by the board within those three years.

31 (d) The letter of reprimand shall be served upon the licensee
32 personally or by certified mail at the applicant's address of record
33 with the board. If the applicant is served by certified mail, service
34 shall be effective upon deposit in the United States mail.

35 (e) A public letter of reprimand issued concurrently with a board
36 license shall be purged three years from the date of issuance if no
37 letter of admonishment, citation, notice of correction, or
38 disciplinary action is initiated by the board during the three-year
39 period.

- 1 (f) A public letter of reprimand issued pursuant to this section
- 2 shall be disclosed to an inquiring member of the public and shall
- 3 be posted on the board's Internet Web site.
- 4 (g) Nothing in this section shall be construed to affect the
- 5 board's authority to issue an unrestricted license.